

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Terrance C. Hawkins,)
Plaintiff,) C/A No. 3:09-1254-MBS
vs.)
Michael J. Astrue, Commissioner of)
Social Security,)
Defendant.)

)

ORDER

Plaintiff Terrance C. Hawkins filed the within action on May 13, 2009, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's claims for benefits under the Social Security Act. See 42 U.S.C. § 405(g).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On August 23, 2010, the Magistrate Judge issued a Report and Recommendation in which he determined that the decision of the Administrative Law Judge (ALJ) to discount the opinion of Plaintiff's treating physician was not supported by substantial evidence. The Magistrate Judge further determined that the ALJ's decision to discount Plaintiff's credibility was not supported by substantial evidence. Accordingly, the Magistrate Judge recommended that the within action be remanded to allow the ALJ to evaluate Plaintiff's credibility and the opinion of the treating physician. On September 2, 2010, the Commissioner filed a notice informing the court that He would not file objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within action is reversed pursuant to sentence four of 42 U.S.C. § 405(g) and 1383(c)(3) and the case remanded to the Commissioner for further administrative action as set out hereinabove and in the Report and Recommendation.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

September 3, 2010.